

UNSETTLED BOUNDARY DISPUTES IN LATIN AMERICA

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DURING the past two or three years one of the major problems in Latin American international relations has been the settlement of long-standing boundary and territorial disputes. Recently some have been successfully adjusted, notably the Tacna-Arica controversy,¹ but there still remains a long list of unreconciled boundary claims, the pressing of which by either party to a dispute may lead at any time to armed encounters. Such conflicts actually have occurred recently in the Chaco, disputed by Bolivia and Paraguay, and in the Motagua valley, disputed by Guatemala and Honduras, and the possibility of further friction in these two sections has not yet been removed.

Of the disputes definitively liquidated within the last three years, the majority have merely represented a final clearing-up of obscure points in boundary treaties which, though already ratified, were based on in-

accurate or inadequate topographical information.² Other boundary controversies, although at one time disposed of through arbitration, have been reopened by the refusal of one of the parties to accept the award. Of these, the Costa Rica-Panama and the Honduras-Nicaragua disputes are the most outstanding. The Ecuador-Peru controversy cannot be counted in quite the same category with the foregoing, since Ecuador, on hearing rumors of an unwelcome award, resorted to futile renewal of direct negotiations with Peru, which in almost twenty years did not lead to a solution. These three, then, together with the Bolivia-Paraguay, Argentina-Uruguay, Colombia-Nicaragua and Guatemala-Honduras disputes make up the seven territorial questions still to be adjusted in Central and South America which are reviewed in the following pages.

I. THE BOLIVIA-PARAGUAY DISPUTE

BOLIVIA'S PROBLEM OF TRANSPORTATION

Almost two-thirds of Bolivia's territory lies east of the Andes, separated from Pacific ports not only by a mountain barrier over twelve thousand feet high but also by political boundaries established in 1883 after the War of the Pacific when Bolivia lost its only seacoast province to Chile. This double barrier creates for Bolivia major problems of communication and transportation. Railroads from Argentina and from the Pacific ports of Mollendo in Peru and Arica and Antofagasta in Chile tap the Pacific slopes of the Bolivian Andes, but it must be re-

membered that the Bolivian cities of La Paz and Oruro, to which these railroads lead, are both situated on the Titicaca basin and both have elevations of more than twelve thousand feet above sea level. The difficulties involved in extending any of these railways to the lowlands of Bolivia on the eastern side of the Andes would be so enormous that no traffic, present or immediately prospective, would seem to justify the hope that they might compete for the trade which naturally belongs to the great waterways in the east with which Bolivia is so abundantly provided.³

1. Cf. F. P. A. *Information Service*, "Mexico, the Caribbean and Tacna-Arica," Vol. III, No. 23, January 20, 1928, and "American Mediation in the Tacna-Arica Dispute," Vol. II, No. 11, August 4, 1926. Cf. also F. P. A. *News Bulletin*, "A Solomon's Decision," Vol. VIII, No. 29, May 24, 1929.

2. Such were the Brazil-Venezuela Protocol of July 24, 1928, the Colombia-Venezuela agreement of December 17, 1928, and the Argentina-Brazil, Argentina-Bolivia and Bolivia-Brazil treaties.

3. Neville B. Craig, *Recollections of an Ill-Fated Expedition* (Philadelphia, Lippincott, 1907), p. 22.

From the early days of the Republic many grandiose projects have been considered for establishing communications across the vast tracts of wilderness and swamps to the Amazon or River Plate systems,⁴ but it was not until 1869 that any action was taken to put one of these schemes into effect. At that time the Madeira-Mamoré railroad was begun, to circumvent a series of falls which obstructed free navigation on the Amazon system. This railroad, however, was abandoned in 1878, and not taken up again until 1903.

The second possible waterway to the Atlantic, by the River Plate, had several disadvantages as compared with the Amazon route, but the failure of the Madeira-Mamoré railway project left Bolivia only the choice between an eastern route on the Paraguay River or a southern route on the Pilcomayo River, both of which belong to the River Plate system.⁵ Explorations on the Pilcomayo River, which flows through southern Bolivia, showed, however, that the latter route was not feasible. Less than two hundred miles from its confluence with the Paraguay, the Pilcomayo filters through a vast swamp about one hundred miles in diameter, through which there is no principal channel, thus cutting off any possibility of communication between points on the upper Pilcomayo and the River Plate.

The Paraguay River, then, was the only practical alternative. Although not very deep, it is navigable as far as Puerto Suárez. Vessels drawing nine feet can at all times reach Asunción, but only those drawing three feet can reach Puerto Suárez in the dry season.⁷ Above that the river filters through swampy areas, as the Pilcomayo does, and is not navigable.

A serious objection to this route existed, however, because of the lack of an agreement between Bolivia and Paraguay as to their common boundary. For many years these governments have disputed the title to

the so-called Chaco district, which lies in the angle between the Pilcomayo and the Paraguay Rivers. Bolivia has desired to secure control of the Chaco in order to get access to the Paraguay River. Although the Chaco district is sparsely settled, it is reputed to have resources which may possibly include oil. In 1879 a treaty was signed granting Bolivia access to the Paraguay River down to the point where the River Apa, which forms the boundary between Paraguay and Brazil, flows into the Paraguay River. This treaty, like its successor in 1887, was eventually ratified by the Bolivian Congress⁸ but never received the approval of the Paraguayan legislature. A third treaty of 1894, the most favorable to Paraguay, was never ratified by either country.

THE CHACO CONTROVERSY

Meanwhile Paraguayans had been pushing across into the more accessible strip of the Chaco along the river. Between 1810 and 1820 whatever control there was along the Paraguay River was exercised by Paraguayan authorities without protest from Bolivia,⁹ which was cut off from the region by the swamps of the Chaco. It was not until 1879 that Bolivia showed a special interest in the area.

Both Bolivia and Paraguay base their claims to the Chaco on colonial documents which in many cases are so ambiguous that the same *cédula* is interpreted by each country so as to establish its own title. In the main, Bolivia's argument is that the Audiencia of Charcas,¹⁰ from which it was created, had never been deprived of its jurisdiction over the triangular area down to the confluence of the Pilcomayo and the Paraguay Rivers.¹¹ Paraguay, on the other hand, argues that the Audiencia of Charcas in 1776 became a part of the new Vice-

4. George Earl Church (compiler), *Explorations Made in the Valley of the River Madeira* (London, published for the National Bolivian Navigation Company, 1875).

5. Francisco J. Bravo, *Oriente de Bolivia* (Buenos Aires, M. Biedma, 1879).

6. Craig, *op. cit.*, p. 24.

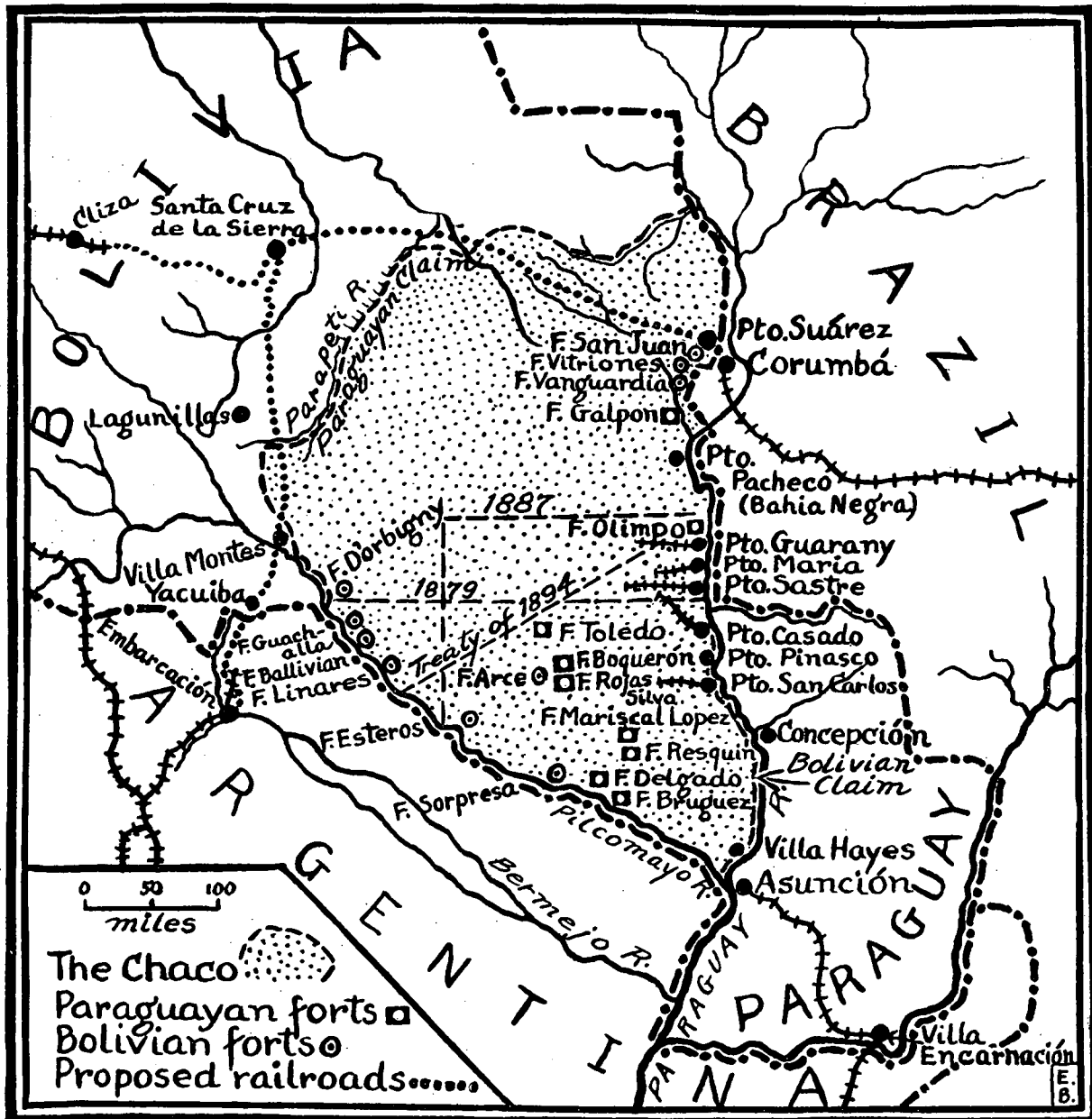
7. George Earl Church, *The Route to Bolivia via the River Amazon* (London, Waterlow & Sons Ltd., 1877), p. 156; Enrique Bolland, *Exploraciones en el alto Paraguay y en la laguna Gaiba* (Buenos Aires, 1901).

8. Emetrio Can de la Vega, *The Bolivian and Paraguay Boundary Dispute* (New York, Consulate General of Bolivia, 1929); also Miguel Mercado M., *El Chaco Boreal* (La Paz, 1920), p. 147 and 165 for texts of treaties of 1879 and 1887 respectively. José Aguirre Achá, *Arbitration Zone in the Bolivia-Paraguay Dispute* (La Paz, 1929), contains text of treaty of 1894.

9. Paraguay, Ministerio de Relaciones Exteriores, *Cuestión de límites con Bolivia*, p. 26.

10. The Audiencia was an important unit in the Spanish colonial system. Second only to the viceroy in prestige and influence, the members of an Audiencia exercised judicial, executive, civil and occasionally military powers. The name was also applied to the whole of a territory subject to the jurisdiction of one of these bodies.

11. Mercado M., *op. cit.*



THE CHACO DISTRICT

Royalty of Buenos Aires; and that in 1783 the new Audiencia created in Buenos Aires, from which Paraguay eventually broke off, was given jurisdiction over the whole valley of the Paraguay River, west as well as east.¹²

Bolivia wishes to base all negotiations for a settlement on titles held in 1810 in accordance with the *uti possidetis* clause,¹³ which

12. Alejandro Audibert, *Cuestión de límites entre el Paraguay y Bolivia* (Asunción, Tipografía Salesiana, 1901), p. 51-55, 88-104, 120.

13. The general proposition that the territorial limits of the Latin American Republics followed the administrative divisions of the Spanish colonial system. The inaccuracy or total lack of official topographic surveys prior to 1810 has made the *uti possidetis* principle of small practical value.

has been generally recognized by Latin American countries. But Paraguay advances an interpretation of the *uti possidetis* clause different from that of Bolivia. It argues that actual possession and not mere legal title shall be the basis for determining ownership.¹⁴ In view of Paraguayan occupation of the region and in view of present concessions along the right bank of the river¹⁵ which proclaim Paraguay's *de facto*

14. Paraguay, Ministerio de Relaciones Exteriores, *Cuestión de límites con Bolivia*, p. 274-300.

15. William L. Schurz, "The Chaco dispute between Bolivia and Paraguay," *Foreign Affairs* (New York), July 1929.

control of the region, the position taken by Paraguay is easily understood.

PROGRESSIVE DEVELOPMENT OF THE CHACO

After the failure of the negotiations of 1879, 1887 and 1894, each country sought to back up its contentions in the Chaco by force. As a result, Bolivian and Paraguayan forts soon faced each other in the disputed area—on the Pilcomayo and extending northward from the impassable swamps, and on the Paraguay River, in the neighborhood of Puerto Pacheco. In all, there are over 50 of these forts.¹⁶

In 1907 Bolivia and Paraguay agreed to submit to the decision of the President of Argentina the ownership of about 50,000 square miles in this region. The President of Argentina, however, declined to arbitrate the case, and again the question was left undecided. Finally, in 1913, both parties agreed not to advance beyond certain outposts defined in the agreement of 1907 until the question could be settled either by direct negotiation or by arbitration.¹⁷

In recent years cattle-raising, quebracho-cutting, and meat-packing have attracted foreign capital—American and Argentine, principally—to the disputed region, so that at present from the right bank of the Paraguay River short private railroads lead from each of the plants into the Chaco Boreal.¹⁸

In 1921 a further advance into the disputed area was made when Paraguay granted a charter to a colony of Canadian Mennonites, which is to develop 3,000,000 acres west of Puerto Casado. By the charter granted at Asunción on July 26, 1921, the Mennonite colony is forever "exempt from obligatory military service, either as combatants or non-combatants, both in times of peace and during war."¹⁹ The colony seems to be meeting with a fair amount of success in stock-raising and general farming.

From the advance post of the Mennonite colony to the River Parapetí, the Chaco is

uninhabited save by a number of Indian tribes of a low cultural state. Beyond the River Parapetí, however, in southeastern Bolivia, the existence of oil has attracted American capital. It is reported that the Standard Oil Company of New Jersey has a one-million-hectare oil concession about 150 miles from the Chaco district. No oil is as yet being extracted from the company's wells. Although it is possible that in the future a pipe line may be extended across the Chaco to the Paraguay River, the most practical means of transportation is said to be via the Argentine State Railway, or through a pipe line to the Brazilian coast.²⁰

BOLIVIA AND PARAGUAY CLASH

While commercial interests were being extended in this region, rivalry between Bolivia and Paraguay again became acute. The 1913 agreement not to advance beyond certain specified outposts was not lived up to and in April 1927 rumors of fighting over the forts maintained in the disputed area led to another unsuccessful conference.²¹ A more serious clash occurred on December 6, 1928 at Fort Vanguardia, a Bolivian post.

By a fortunate coincidence two agencies for peace were in session at that time, the Pan-American Conciliation and Arbitration Conference at Washington and the League Council at Lugano. On December 10 the Pan-American Conference passed the following resolution:

"The Conference of American States on Conciliation and Arbitration, assembled at Washington for the purpose of organizing the procedure for the pacific solution of their international differences,

"Unanimously resolves:

"1. To express to the Governments of the sister Republics of Bolivia and Paraguay the keen aspiration and hope which it fosters that their present differences shall be adjusted peacefully in a spirit of justice, concord, and fraternity;

"2. To convey in a cordial and respectful manner to the aforementioned Governments, in conformity with the tradition of this continent

16. *New York Times*, October 8, 1929.

17. Aguirre Achá, *op. cit.*, p. 44-6. For text of 1913 agreement, cf. p. 46.

18. Schurz, *op. cit.*

19. John W. White, "The Great Migration to Paraguay," *Bulletin of the Pan American Union*, May 1927, p. 422-442. Already many Mennonites from the United States have joined the colony.

20. F. P. A. *News Bulletin*, "Averting a Latin American War," Vol. VIII, No. 6.

21. *La Prensa* (New York), October, November and December 1927.

and with the practices which have become general in modern international law, that nations under circumstances such as the present have at their disposal adequate and effective organs and means to find solutions which harmonize the preservation of peace with the right of the States;

"3. To transmit this resolution by telegraph to the Governments of Bolivia and Paraguay;

"4. To form a committee charged with the duty of advising the conference upon the conciliatory action which, if necessary, it might render by cooperating with the instrumentalities now employed in the friendly solution of the problem."^{21a}

Representatives of the United States, Brazil, Cuba, Peru and Chile were appointed to this special committee.

On December 11 the Council of the League of Nations cabled the governments of Bolivia and Paraguay reminding them, as Members of the League, of the provisions of the Covenant with regard to pacific procedure for the settlement of disputes. The Council did not impose its services upon the two governments but left the door open to whatever form of procedure they might prefer. The Council's message read in part:

"It [the Council] does not doubt that the two States . . . will have recourse to such methods as would be in conformity with their international obligations and would appear, in the actual circumstances, to be the most likely to ensure, together with the maintenance of peace, the settlement of their dispute."²²

On December 11 Paraguay reported to the Council that it was ready to live up to its obligations and that it had asked for the summoning of the International Commission of Inquiry provided for in the Gondra treaty for the pacific settlement of conflicts between American States.²³ Bolivia, which had adhered to but not ratified the treaty, refused to agree to the proposed procedure, and handed the Paraguayan representative at La Paz his passport. In its reply of December 14 to the Council's telegram, the Bolivian government justified its stand in the following manner:

"Bolivia, in adopting the line of conduct forced on her by circumstances, is in no way

rejecting peaceful and conciliatory solutions, but only asks for reparation of the outrages committed, and she cannot consent to her aggressor's avoiding its obligation by taking shelter behind the provisions of a pact more suitable for preventing conflicts than for solving them."²⁴

On December 15 the Bolivian Minister for Foreign Affairs informed the President of the Council of a second skirmish, during which Bolivia had captured the Paraguayan post, Fort Boquerón (in the region granted by charter to the Mennonite colony), alleging that Paraguayan troops had been the aggressors. Immediately on receipt of this communication M. Briand addressed both governments, impressing them with the urgent necessity of "taking measures to prevent further incidents capable of compromising the success of any peaceful procedure."²⁵

Meanwhile Bolivia and Paraguay had sent replies to the Pan-American Arbitration Conference, and on December 14 the special committee reported that in its opinion the conference should use its good offices in making a concrete proposal of conciliation to Bolivia and Paraguay.^{25a} The conference adopted this proposal, and charged the special committee with reporting to the conference on developments which might arise out of the incident between the Bolivian and Paraguayan governments.

On December 15 the American Secretary of State, as chairman of the Pan-American Conciliation and Arbitration Conference, addressed identic notes to the Bolivian and Paraguayan Ministers for Foreign Affairs, formally offering the good offices of the conference. Bolivia acknowledged the note the following day—December 16—but did not accept the offer until December 19, after it had formulated its demands for reparation for the capture of Fort Boquerón.

In their replies to the League Council, meanwhile, each government denounced the other for active mobilization. Paraguay reported that it had accepted the good offices of the Pan-American Conference on December 18, but Bolivia still hung back. Faced with a situation which had not essen-

21a. *Proceedings of the International Conference of American States on Conciliation and Arbitration, December 10, 1928 to January 5, 1929* (Washington, Government Printing Office, 1929), p. 88.

22. League of Nations, *Documents concerning the dispute between Bolivia and Paraguay*, C.619.M.195.1928.VII., p. 4.

23. Cf. F. P. A. *Information Service*, "The Pan-American Arbitration Treaty," Vol. V, No. 18, November 13, 1929, p. 315-316.

24. League of Nations, *Documents concerning the dispute between Bolivia and Paraguay*, cited, p. 9.

25. *Ibid.*, p. 9.

25a. *Proceedings*, cited, p. 138.

tially improved since the Council's first intervention, the President of that body seriously considered the possibility of taking more vigorous action. On December 18 he addressed an *aide mémoire* to the Chargés d'Affaires of Argentina and the United States in Paris, notifying them that "if, in the next few days, the two governments do not, in some form or other, accept such mediation as will afford a likelihood of the settling by peaceful methods of the request for reparation submitted by the Bolivian Government—thereby excluding the possibility of further hostilities—the Council can hardly avoid holding an extraordinary session."²⁶ In such an eventuality, he continued, the Council would have to consider what measures should be taken, either because war had broken out—or because it was on the point of breaking out—between two Members of the League.

He further pointed out that neither of the countries recognized any common contractual obligation not to resort to war other than that arising under the League Covenant by which they were both bound. After intimating that the Pan-American Conference and Argentina might helpfully communicate reports of their action to the League as the League had to them, the Acting President formally proposed coordination of efforts and asked what the other agencies would themselves suggest.

On the same day, the Acting President advised all the members of the Council that it was not unlikely that he would summon an extraordinary session in a few days. This extreme measure, however, was rendered unnecessary by the receipt on the following day of a communication from Bolivia announcing that it had accepted the good offices of the Pan-American Conciliation and Arbitration Conference meeting at Washington.

M. Briand immediately cabled, expressing the gratification of the League that the "generous initiative" of the Pan-American Conference had been so favorably received, and offering its good wishes for a speedy settlement.²⁷ Thus the matter was left defin-

itely in the hands of the Pan-American agency.

APPOINTMENT OF COMMISSION OF INQUIRY

As a result of the good offices of the Pan-American Conference, Bolivia and Paraguay signed a protocol providing that a "commission of inquiry and conciliation establish the facts which have caused the recent conflicts in the Chaco." This commission was to be composed of nine, consisting of two representatives each from Bolivia and Paraguay, and one each from five neutral countries—Colombia, Cuba, Mexico, the United States and Uruguay.²⁸ The power of this commission was restricted to determining which of the two parties had "brought about a change in the peaceful relations between the two countries." The work of the commission was to be completed within six months from the date of its organization. Once the investigation was completed, the commission would submit proposals whereby the incident might be amicably settled. Both Bolivia and Paraguay promised to suspend all hostilities and to stop all concentration of troops at the points of contact of the military outposts of both countries. The protocol did not affect the territorial questions pending between the two countries.²⁹

On July 1, 1929 the Commission of Inquiry and Conciliation was further authorized by Bolivia and Paraguay to submit suggestions for a permanent settlement of the fundamental question of the boundary between the two countries.³⁰

In pursuance of its instructions, the commission on June 20 and July 8 arranged through the governments of Uruguay and Argentina for the repatriation of the Paraguayan and Bolivian prisoners of war held by Bolivia and Paraguay respectively as a

theless, Bolivia finally consented to a pacific settlement of the incident, in part because of pressure brought to bear by the League Council and the Pan-American Conference, and possibly because of the financial control exercised over Bolivia by American interests. These interests have acquired oil and tin holdings of importance. Moreover, the revenues of the government are supervised by a Permanent Fiscal Commission composed of three commissioners, two of whom are recommended by American bankers. One of the latter is chairman. Cf. Ludwell Denny, *America Conquers Britain*, p. 167. There is no known connection between the banks holding the Bolivian loans and the American tin and oil interests. It is denied, moreover, that these interests had anything to do with the specific settlement of the Chaco incident.

28. Protocol of January 3, 1930. *Proceedings*, cited, p. 169-170.

29. *Ibid.*, p. 162. On January 4 the Pan-American Conference passed a resolution stating "its full satisfaction because its good offices were accepted."

30. Commission of Inquiry and Conciliation, Bolivia and Paraguay, *Report of the Chairman* (Washington, Government Printing Office, 1929), p. 7.

26. League of Nations, *Documents concerning the dispute between Bolivia and Paraguay*, cited, p. 11.

27. *Ibid.*, p. 12. A few months before the outbreak of hostilities, Bolivia had secured a loan from American bankers, part of which had been used for the purchase of arms. Never-

consequence of the events of December 1928 in the Chaco. The prisoners were questioned by the commission and as a result of these and other investigations, it was decided that "coercive measures on the part of Paraguay had caused the reaction of Bolivia."³¹ This determination of the "aggressor" by an international commission may be of importance in connection with the development of the anti-war pact.

A good beginning for the solution of the commission's second objective was achieved on September 12 when both parties adopted a resolution of conciliation, providing for the renewal of diplomatic relations and the reestablishment of the *status quo* in the Chaco as of December 5, 1928.

When the term of the commission expired on September 13, negotiations for carrying out this resolution were entrusted to the government of Uruguay, which had been represented on the Commission of Neutrals. It suggested to the governments of Bolivia and Paraguay that they resume diplomatic relations, that Paraguay rebuild Fort Vanguardia, and that Forts Vanguardia and Boquerón be simultaneously returned to their former owners, Bolivia and Paraguay respectively, thus restoring the condition existing in the Chaco before the 1928 skirmish. This suggestion was formally accepted by Bolivia on December 14,³² but up to the middle of February 1930 the Paraguayan government had not acceded to the proposal. It stated that it could not, as a point of national honor, assume the responsibility for the clashes which would be implied in the requirement that Fort Vanguardia be rebuilt prior to the evacuation of Fort Boquerón by Bolivia.

On January 19, 1930, while negotiations for the restoration of the forts were still pending in Montevideo, the Paraguayan Minister of War announced that on January 16 a Bolivian patrol had attacked a Paraguayan encampment near Puerto Casado on the Paraguay River, killing one Paraguayan soldier. The Paraguayan government notified the Secretariat of the League of Nations directly and once more the Acting President of the Council addressed the Bolivian and Paraguayan governments, remind-

ing them of their commitments for peaceful procedure and expressing confidence that no serious incident would compromise its success.

With Bolivia's reply on January 27 denying Paraguayan charges and Paraguay's note of January 30 disclaiming responsibility for the clash, the League of Nations considers the incident closed. Nevertheless, the question has been raised as to what action the outside world would take should a serious conflict finally break out over the Chaco. An American body assumed jurisdiction over the dispute in 1928 because of the fortuitous circumstance that the Pan-American Conciliation and Arbitration Conference was in session at the moment; but in case war over the Chaco should again be threatened it is unlikely that any similar American body would be available to render its good offices.³³ The only body with authority to act in case of threatened conflict, no matter when it arises, is the Council of the League. Both Bolivia and Paraguay are Members of the League and subject to the prohibitions of the Covenant in regard to aggression. Under ordinary circumstances the Council might intervene in a dispute at the request of any Member State, as it did in the case of Greece and Bulgaria in 1925.³⁴ But the Chaco situation is complicated by the fact that Bolivia and Paraguay are located on a continent wherein the United States, which is not a Member of the League, has occupied a position of special influence. It seems probable, therefore, that before assuming jurisdiction over the Chaco dispute the League Council would invite the cooperation of the United States.

The third phase of the task entrusted to the commission appointed by the Arbitration and Conciliation Conference in 1928 was to deal with the fundamental cause of dispute—i. e., to trace a boundary line satisfactory to both countries.³⁵ The commission suggested a plan for direct settlement, which,

33. Neither Bolivia nor Paraguay has ratified the Pan-American Conciliation Convention of 1929. Paraguay has ratified the anti-war pact; Bolivia has expressed an intention to ratify the anti-war pact, but the instrument of ratification has not yet been deposited.

34. Cf. F. P. A. *Information Service*, "The Anti-War Pact," Vol. IV, No. 18, November 9, 1928, p. 370.

35. Commission of Inquiry and Conciliation, Bolivia and Paraguay, *op. cit.*, p. 2.

31. *Ibid.*, p. 15.

32. *New York Times*, December 15, 1929.

however, proved unacceptable. It next proposed a convention of arbitration to settle the Chaco dispute;³⁶ each party to appoint two arbitrators, of whom only one might be its own national, and to agree on a fifth arbitrator who would be president of the court. All arbitrators were to be citizens of the republics of America. In case the parties failed to draw up an agreement defining the controversy within three months, the agreement was to be formulated by the court. The territory awarded to Paraguay by the decision of President Hayes, however, was to be excluded from arbitration.³⁷ Moreover, Bolivia, regardless of the arbitral decision, was to be given the port of Bahía

Negra on the Paraguay River. Although the government of Paraguay in October 1929 and Bolivia in November accepted the principle of arbitration, Bolivia declined to give up its claim to the territory awarded to Paraguay by President Hayes, while Paraguay declined to admit Bolivia's claim to Bahía Negra.

Either the compromise suggested by the Commission of Inquiry and Conciliation or one similar to it is indispensable for a settlement of the dispute, and the unwillingness or inability of successive governments to accept arbitration has been the great stumbling-block to negotiations for over half a century.

II. THE ECUADOR-PERU DISPUTE

THE "ORIENTE"

The "Oriente" controversy between Ecuador and Peru is second in importance only to that of the Chaco between Bolivia and Paraguay. It involves an area estimated at over 40,000 square miles,³⁸ lying east of the Andes and at the headwaters of the Amazon.

Ecuador, as it is generally outlined on maps of South America, is shaped more or less like a triangle with a base on the Pacific coast. It is cut by two Andean ranges into three sections and it is the Oriente—the section east of the second range—that Ecuador and Peru both claim. The land is rather high, sloping sharply to the south and east, and is well watered by rivers which flow south and southeastward to the Marañón, as the Amazon is called beyond the Brazilian frontier. The region, although practically undeveloped, is very fertile, producing cinnamon and other spices, cinchona, from which quinine is extracted, vanilla, salt, rubber and cotton. These potential resources, so Ecuador contends, are its chief value; the coastal and inter-Andean regions of Ecuador as the population increases will become dependent upon the Oriente for expansion and foodstuffs.

At present, means of communication between Quito, Ecuador's capital, over the

Andean barrier to the Amazon district are practically non-existent. In the near future, however, there is a possibility that the airplane—which has done so much for Colombia and Peru—may play a part in the opening-up of that region of Ecuador.

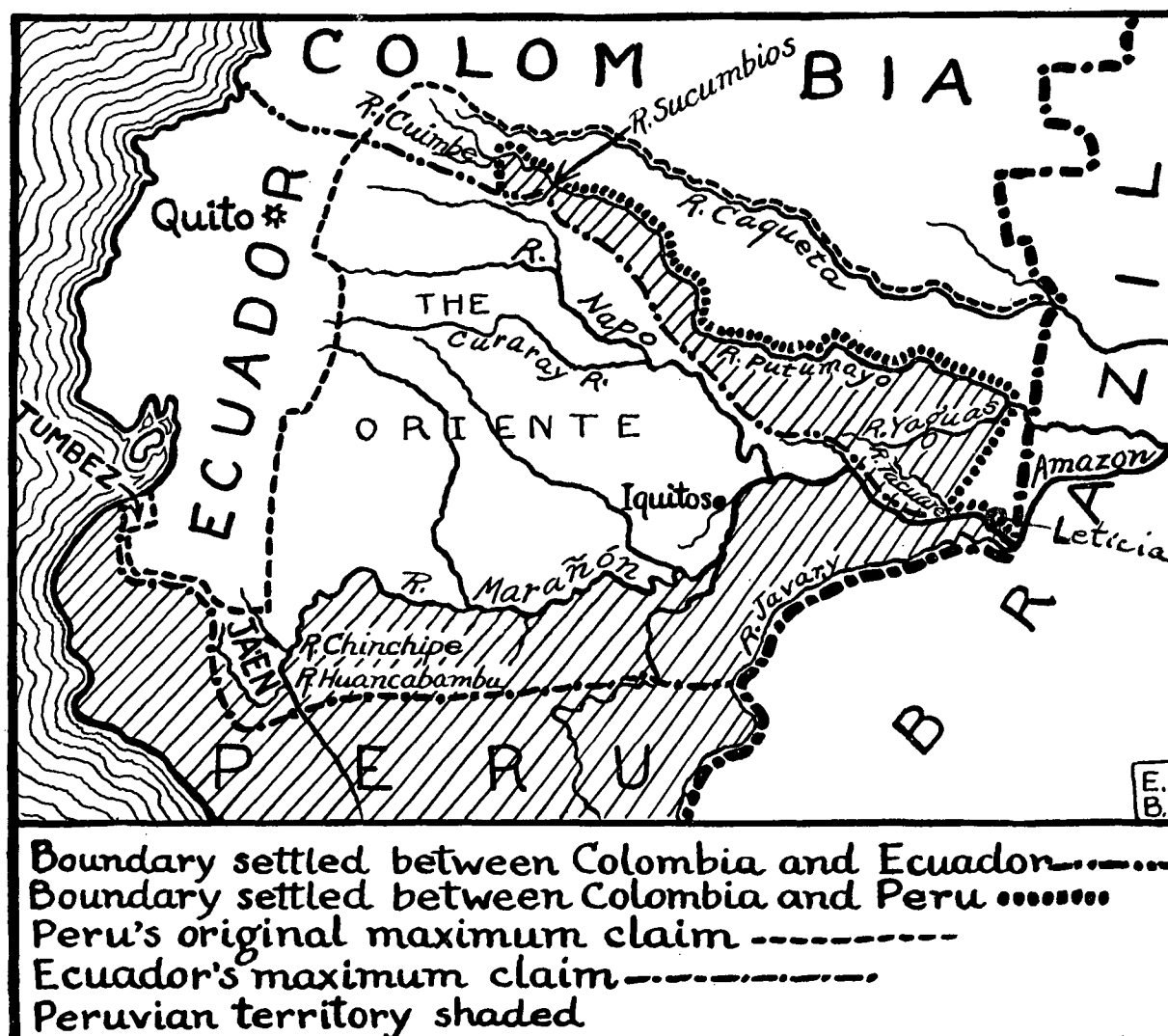
On the other hand, the Oriente is much more easily accessible from the northeastern provinces of Peru. The navigable tributaries south of the Amazon form a natural means of communication which have been utilized from early colonial days. Although it was by priests and adventurers from Quito in Ecuador that the region was first explored,³⁹ since the beginning of the 19th century Peru has administered and colonized much of the Oriente on the headwaters of the Amazon. Iquitos, now the fourth largest Peruvian city, was founded as a result of this northward colonizing movement into the Oriente. From Iquitos Peruvians ascended the northern tributaries of the Marañón River and colonized the Oriente in violation of what Ecuador claimed were its rights. The Andean barrier, however, has prevented any systematic administration of the territory by the government of Ecuador, and although numerous projects have been discussed for the construction of roads or railroads from Quito to some port on a tributary of the Amazon, none of them has as yet been carried out.

36. *Ibid.*, Appendix, p. 7.

37. This award was made in 1878 in accordance with the Treaty of Limits of 1876 between Paraguay and Argentina which reserved Bolivia's claims in the Chaco. Cf. Graham H. Stuart, *Latin America and the United States* (New York, Century Company, 1922), p. 364.

38. Reginald C. Enoch, *Ecuador* (New York, C. Scribner's Sons, 1914).

39. Enrique Vacas Galindo, *La integridad territorial de la República del Ecuador* (Quito, Tipografía Salesiana, 1906), p. 37-96.



In 1905, referring to the necessity of building a railroad between Quito and a point at the head of navigation on the Curaray River, a tributary of the Amazon, Father Enrique Vacas Galindo, the Ecuadorean authority on the boundary question, pointed out that

"... in this region Ecuadorean nationals are exploited and contribute by paying municipal and other taxes to the enrichment of foreign treasuries. Why? Only because they have no roads or facilities for communicating with the mountain cities; for, far from their fellow nationals and towns, far from the protection of their laws and benefits of their government, they are considered foreigners in their own homeland, while the real foreigners treat them as enemies for the sole reason that they claim, and justly, sole ownership of the territory and its riches."⁴⁰

40. Enrique Vacas Galindo, *Conferencia sobre la importancia de un ferrocarril al Oriente* (Quito, 1905).

Besides the Oriente, there are two other small districts in dispute, the province of Tumbez,⁴¹ the district bordering on the Pacific, north of the river of the same name and south of the river Zarumilla; and the province of Ján,⁴² the region bordering the Marañón River where it curves sharply southward between the Rivers Chinchipe and Huancabamba. These, however, are rather small areas, being estimated at about 500 and 3,000 square miles respectively.

The conflicting claims of Peru and Ecuador date back, as do all others in Latin America, to colonial days and are based on colonial territorial divisions. Ecuador rests its claim to the territory on three main

41. Vicente Santamaría de Paredes, *A Study of the Question of Boundaries between Ecuador and Peru* (Press of Byron S. Adams, Washington, 1910), p. 154-164.

42. *Ibid.*, p. 127-37.

points: exploration;⁴³ a royal decree of 1740 which defined the boundaries of the Presidency of Quito, including the Oriente;⁴⁴ and a protocol of 1830,⁴⁵ by which Ecuador alleges that Peru gave up its claim to all lands north of the Amazon, but which Peru claims to be a forgery. A fourth claim sometimes advanced is that the inland region is necessary for the future development of coastal and mountainous Ecuador.⁴⁶

Peru in its turn rests its claim on a later *cédula* of 1802 and presents various other royal orders dating up to 1816 to prove that the terms of the 1802 *cédula* were accepted and carried out by the colonial administrators.⁴⁷ Moreover, it points to effective colonization and occupation of much of the Oriente by Peruvians as proof of its established rights to the territory.⁴⁸

ATTEMPTS TO SETTLE CONTROVERSY

In accordance with the treaty of 1887, by which Ecuador and Peru agreed to present their claims to arbitration by the King of Spain, each nation drew up extensive memorials to prove its points.⁴⁹

This mass of material was sent to Spain, but an award was never made. In 1910 rumors originating in Madrid predicted a speedy award which would be detrimental to Ecuadorean interests, while not fully satisfying Peru.⁵⁰ As a result of the ensuing newspaper campaign of protest, public opinion in both countries was aroused to such a pitch that war was imminent. In May, at the instigation of the United States, the first joint offer of mediation in a South American dispute was made by the Brazilian, Argentine and United States govern-

ments.⁵¹ This offer was accepted, as was also the next suggestion of the mediators, that the troops of both countries be removed from the frontier.⁵² Immediate warfare having thus been averted, the parties awaited the award of the Spanish King. In November, however, the Spanish government informed the governments of Ecuador and Peru that King Alfonso XIII withdrew from his position as arbitrator, on the ground that the "prolongation of the situation would not bring about the desired solution," and expressed the hope that direct negotiations might be successful.⁵³

The mediating powers then suggested that the question be submitted to the Hague Tribunal but, although this was acceptable to Peru, Ecuador refused on the grounds that it could not submit to arbitration a question which affected its national sovereignty.⁵⁴ As an alternative, it proposed direct negotiations with Peru, but Peru, in its turn, recalled that for half a century direct negotiations had not led to satisfactory results and insisted on arbitration. This remained a stumbling-block until 1924, when, by the Protocol of June 21, 1924,⁵⁵ Ecuador and Peru pledged themselves to seek an agreement by direct negotiations as soon as the Chile-Peru boundary should be settled. Any points which cannot be settled by direct negotiations are to be submitted to the President of the United States for his arbitration. The results of that arbitral award will then have to be presented to the two national congresses for approval.

Now that the Tacna-Arica dispute has been settled, there are frequent reports in the press that direct negotiations between Peru and Ecuador are actually under way.

43. Enrique Vacas Galindo, *La integridad territorial de la República del Ecuador*, p. 1-16.

44. *Ibid.*, p. 116-133.

45. Modesto Chávez Franco, *Cartilla Patria, Epítome de historia y geografía referentes a las fronteras entre Ecuador y Perú de 1531 a 1921* (Quito, Imprenta El Día, 1922), p. 125-29.

46. Pastoriza Flores, *History of the boundary dispute between Ecuador and Peru* (New York, Columbia University, 1921).

47. Santamaría Paredes, *op. cit.*, p. 104-26.

48. *Ibid.*, p. 291.

49. Perú, *Alegato del Perú en el arbitraje sobre sus límites con el Ecuador presentado a S.M. el árbitro la Reina Regente de España* (Madrid, Imprenta de los hijos de M. G. Hernández, 1905); *Documentos anexos al alegato del Perú*, 2 vols. (Madrid, 1905); Perú, *Memoria del Perú en el arbitraje . . . con el*

Ecuador (Madrid, M. G. Hernández, 1905-1906); *Documentos anexos a la memoria del Perú* (Madrid, 1905-1906); Ecuador, Ministerio de Relaciones Exteriores, *Exposición ante S.M. Católica en la demanda de la República del Ecuador contra la del Perú*, 2 vols. (Madrid, 1906); *Límites entre el Ecuador y el Perú: alegato del gobierno del Ecuador . . .* (Quito, 1892).

Ecuador-Perú, *Documentos relativos al litigio de frontera de ambos países sometido al fallo arbitral de S.M. Alfonso XIII* (Quito, Imprenta Nacional, 1910).

50. Ecuador, *Documentos diplomáticos referentes al conflicto Ecuatoriano-Peruano* (Quito, Imprenta Nacional, 1910).

51. U. S. Department of State, *Foreign Relations*, 1910, p. 456-7.

52. *Ibid.*, p. 461.

53. *Ibid.*, p. 504.

54. *Ibid.*, 1911, p. 178.

55. League of Nations, *Treaty Series*, Vol. 27, p. 345-48.

III. THE COSTA RICA-PANAMA DISPUTE

When in 1903 Panama became an independent State, it fell heir to a territorial controversy between Colombia and Costa Rica. The question had been arbitrated in 1900 by President Loubet of France, but whereas the frontier from the central Cordillera to the Pacific (leaving the erstwhile Panamanian Coto district in Costa Rican territory) was acceptable to both parties, Costa Rica protested against the line running eastward from the Cordillera to the Atlantic, which left a similar strip of Costa Rican territory to Panama.⁵⁶ President Loubet, Costa Rica argued, had exceeded his powers in drawing the eastern boundary outside the zone in dispute and in territory unquestionably Costa Rican. It therefore protested the award and until a new agreement could be reached, Panama (Colombia's successor) and Costa Rica informally agreed to preserve the *status quo*. This, however, was never adequately defined and only gave rise to further misunderstandings.⁵⁷

President Loubet in his rôle of arbitrator in 1900 chose a mountain spur running from the central Cordillera to the Atlantic as a more marked frontier than would be afforded by the river Sixaola, which had previously constituted the northernmost limit of Colombian jurisdiction. This gave to Colombia the strip of fertile but practically uninhabited and uncultivated territory lying between the Sixaola River and the mountain spur set as the boundary. Costa Rica, as we have seen, registered its protest, but Colombia and later Panama did not make any move to establish their authority in the strip, while allowing Costa Rica to continue to exercise *de facto* control over it.⁵⁸

COMMERCIAL INTERESTS AGGRAVATE MATTERS

Meanwhile the rivalry of two American fruit companies for the right of exploiting the fertile strip greatly enhanced its value, and the leisurely and amicable negotiations for a settlement soon changed into a heated

argument over the validity of the Loubet award. The part played by the American Banana Company and the United Fruit Company deserves special attention because it illustrates the sort of thing that has frequently occurred or is occurring on other frontiers in Latin America.⁵⁹

The United Fruit Company was organized in 1899 and bought up the property and business of its competitors, organizing a selling company (of which it held stock) that sold at fixed prices all bananas of the combining parties. In 1904 it came into conflict with a rival company, the American Banana Company, which brought suit against it in the United States.

According to the plaintiff in this case, one McConnell started a banana plantation in 1903 in the province of Panama, then part of the United States of Colombia, and began to build a railroad. He was notified by the United Fruit Company, then operating in Costa Rica, that he must either combine with them or withdraw. Two months later, the Governor of Panama recommended to his national government that Costa Rica be allowed to administer the territory through which the railroad was to run, although that territory had been awarded to Colombia under arbitration agreed to by treaty. The United Fruit Company and afterwards, in September, the government of Costa Rica interfered with McConnell. In November 1903 Panama revolted and became an independent republic, declaring its boundary to be that settled by the award. In June 1904 the American Banana Company bought out McConnell and went on with the work, as it had a right to do under the laws of Panama. But in July Costa Rican soldiers and officials seized a part of the plantation and a cargo of supplies, and stopped the construction and operation of the plantation and railway. In August one Astua, by *ex parte* proceedings, got a judgment from a Costa Rican court declaring the plantation to be his, although the American Banana

56. Cf. Panamá, Ministerio de Relaciones Exteriores, *Controversia de límites entre Panamá y Costa Rica*, p. 11, for letter of Costa Rican Minister in Paris to French Minister of Foreign Relations, dated September 29, 1900.

57. *Ibid.*, p. 24, 74; Panamá, *Gaceta Oficial*, August 23, 1904.

58. Panamá, Ministerio de Relaciones Exteriores, *op. cit.*, p. 24, 67.

59. The Guatemala-Honduras boundary dispute, for example, was greatly complicated by a similar rivalry between the Cuyamel Fruit Company and the United Fruit Company; concessions to foreign companies in the Chaco by Bolivia and Paraguay are involving vested interests in that dispute; and concessions by Peru in what Ecuador claims to be its territory have aroused bitter feeling in Ecuador.

Company alleged that the proceedings were not within the jurisdiction of Costa Rica and were contrary to its laws and void. Agents of the United Fruit Company then bought the lands from Astua. The American Banana Company tried in vain to induce the government of Costa Rica to withdraw its soldiers from the plantation and also tried to persuade the United States to interfere, but was thwarted in both attempts by the United Fruit Company.⁶⁰

The American Banana Company brought suit in the United States against the United Fruit Company for damages, alleging that the latter had instigated the Costa Rican government to seize its property. The Supreme Court in 1908 declared it had no jurisdiction in the matter; "The substance of the complaint is that, the plantation being within the *de facto* jurisdiction of Costa Rica, that State took and keeps possession of it by virtue of its sovereign power. But a seizure by a State is not a thing that can be complained of elsewhere in the Courts..." It then added: "The fact, if it be one, that *de jure* the estate is in Panama does not matter in the least; sovereignty is pure fact. The fact has been recognized by the United States and by the implications of the bill has been assented to by Panama."⁶¹

ARBITRATION OF BOUNDARY QUESTION

The boundary question was not pressed by either the Panama or Costa Rican governments until 1909, when, a few months after the decision of the United States Supreme Court, the American Secretary of State addressed the American Minister in Panama, asking him to inform the Panama government that since it refused to present the question for arbitration, and since it had allowed Costa Rica to retain *de facto* control of the territory, the United States government would treat with Costa Rica as the government having jurisdiction in that region. The note of January 23, 1909, read in part as follows:

"For over three years this government has manifested its vehement desire and hope that the conflicting boundary claims of Panama and Costa Rica might be terminated once for all.

The interest of the United States in seeing this dispute settled has been constantly demonstrated and its reasons have been clearly expressed.

"When Panama secured its independence there were American interests of importance on the boundary line on the river Sixaola, over which rival American citizens had established claims.

"The settlement of their conflicting claims was and still is dependent on the result of the question of sovereignty over the territory and of the sovereign jurisdiction over controversies which may arise therein. The situation thus created has been very embarrassing and troublesome for the United States and this will continue as long as the determination of the title of sovereignty is in dispute."⁶²

In spite of the earnest representations of the United States government, Panama did not agree to submit the dispute to arbitration by the Chief Justice of the United States until March 17, 1910. Then, finding direct negotiations with Costa Rica unavailing, it finally capitulated, although in view of the Supreme Court's decision in favor of the United Fruit Company's operating in Costa Rica, Panama feared that an arbitral decision by the head of the Supreme Court would be adverse to its interests.⁶³

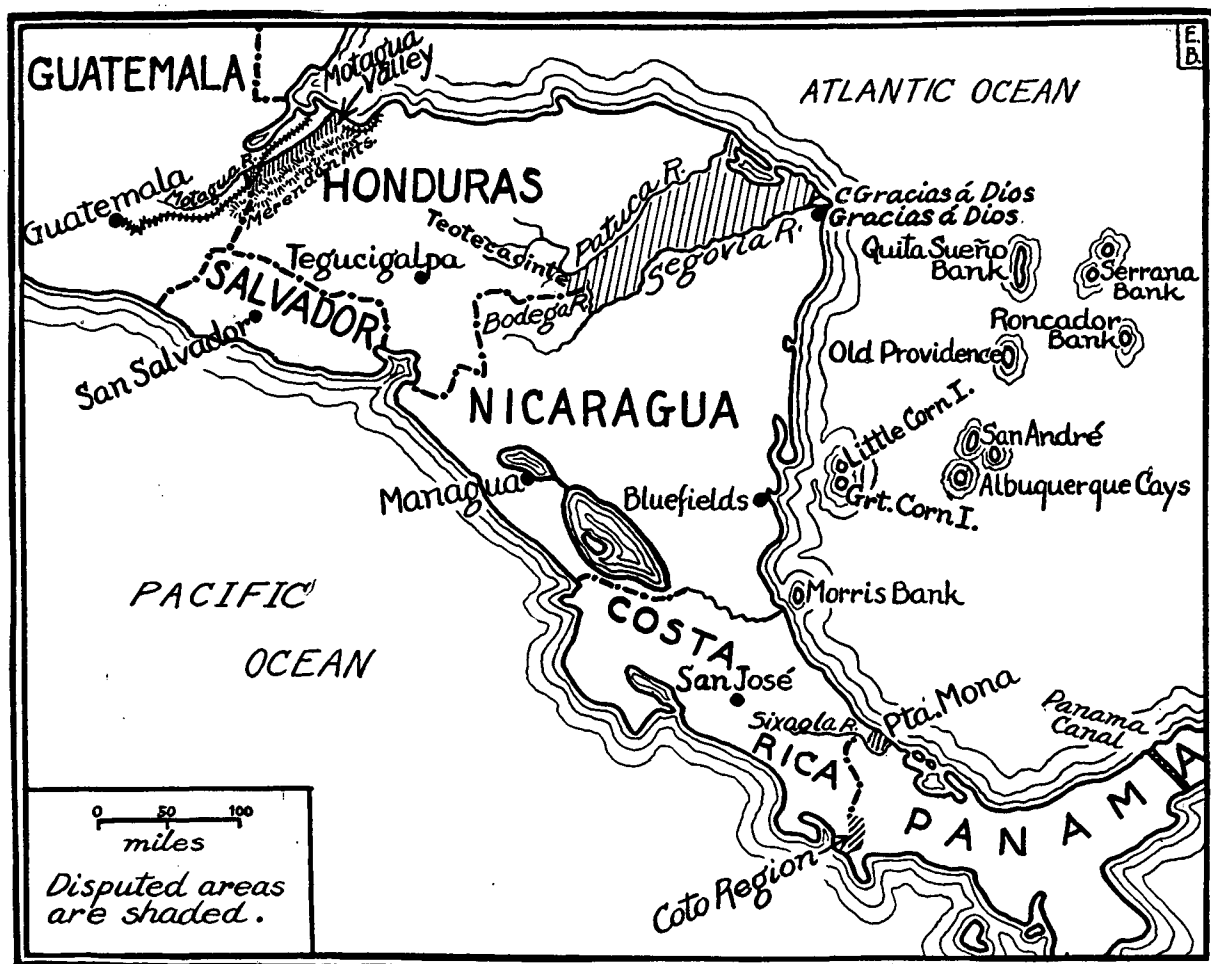
The award of Chief Justice White, handed down on September 12, 1914, confirmed Panama's fears. The award upheld Costa Rica's contention that President Loubet, owing to inaccurate information with regard to the territory in dispute, had exceeded his powers by determining a line outside the section of territory submitted to his arbitration. It fixed the Sixaola River, north of which Panama had never exercised jurisdiction, as the boundary. Panama refused to accept this award, alleging that the American arbitrator had exceeded his powers in examining the validity of the Loubet award and in substituting an entirely different boundary line for the one therein proposed. The government of Panama took the view that the Loubet award had compensated Costa Rica for its losses in the east by giving it the Coto district in the west; the White award, however, had not restored any of the Coto district to Panama when it restored the eastern region to Costa Rica; Panama considered it unjust that

60. Summary of the Plaintiff's Case. *American Banana Company vs. United Fruit Company*, 213 U. S., 347-59.

61. *Ibid.*, p. 458-9.

62. Panamá, Ministerio de Relaciones Exteriores, *op. cit.*, p. 48.

63. *Ibid.*, p. 62. Letter of Belisario Porras, Minister of Panama in Costa Rica to the Secretary of Foreign Relations, Panama, May 14, 1909.



BOUNDARY DISPUTES IN CENTRAL AMERICA

Costa Rica should now be favored both in the east and in the west.

Costa Rica asserted that Panama's attitude was not justified, for in the arbitration agreement of 1910 the arbitrator was called upon to decide the question:

"Which is the boundary between Panama and Costa Rica most in accord with the correct interpretation and the true intention of the award of the President of the French Republic of September 11, 1900? In deciding this point the arbitrator will take into account all the facts, circumstances and considerations which may touch upon the case, as well as the limitation of the Loubet Award . . . that the boundary must be traced within the limits of the territory in dispute as determined in the Convention of Paris between the Republic of Colombia and the Republic of Costa Rica on June 20, 1886."⁶⁴

64. *Ibid.*, p. 193.

With Panama's refusal on September 17, 1914 to accept the White award, the situation on the Pacific and Atlantic coasts continued unsettled, but no serious incident disturbed the relations between the two countries until 1921. On February 21 of that year, however, Costa Ricans crossed over into the Coto district on the Pacific which Panama insisted should remain Panamanian until the entire boundary should have been definitely determined.

Panama immediately sent a constabulary force, which disarmed the Costa Ricans and reoccupied the territory. Costa Rica then sent soldiers across to the right bank of the Sixaola River on the Atlantic coast into indisputably Panamanian territory, and both countries threatened to resort to war.⁶⁵

65. Panamá, Poder Ejecutivo, *Manifiesto a la Nación*, August 24, 1921 (Panamá, Imprenta Nacional, 1921).

INTERVENTION OF THE UNITED STATES

The United States then intervened. In Panama, a mob demonstration against President Porras, who was reported to have said that war over valueless territory was an absurdity, brought 200 American soldiers from the Canal Zone to maintain order. On February 28 Secretary Colby warned both governments that they must resort to peaceful means for the settlement of their controversy and on March 5 his successor, Mr. Hughes, addressed identic notes to both governments, issuing a similar warning and upholding the White award.⁶⁶

Negotiations for a definite settlement were unavailing, but finally on August 23, 1921, after receiving notice from the American

government that there was no reason for further delay in Costa Rica's occupation of the Coto region and on learning of the simultaneous dispatch of an American battleship with 400 marines to the Isthmus, Panama under protest ordered its civilian officials to abandon the disputed area.⁶⁷

In Panama as well as in other Latin American countries the United States was severely criticized for its intervention, and relations between Panama and Costa Rica were so embittered that diplomatic relations between the two countries were not resumed until October 1928. During the past year relations have remained cordial, but although press reports rumor that negotiations are again under way,⁶⁸ no definite results in the adjustment of the Atlantic slope boundary have yet been reached.

IV. THE GUATEMALA-HONDURAS DISPUTE

Official diplomatic relations between Guatemala and Honduras, which since 1918 have frequently been strained, seem to be entering upon a period of greater cordiality. The press in both countries, however, still continues to publish rabid editorials on the subject of boundaries.⁶⁹ It is probably safe to say that the rivalry of the United Fruit Company, with holdings in Guatemala, and the Cuyamel Fruit Company in Honduras has hampered any settlement of the questions which for 80-odd years the two countries have been debating. It is prophesied, however, that a speedy solution of the dispute may now be expected.⁷⁰⁻⁷¹

The controversy is strikingly similar to that between Costa Rica and Panama. The alternative boundaries suggested are the watershed of the Merendón mountains on the south—Guatemala's claim—and the Motagua River to the north—Honduras' claim; and it is in the valley between, covering about 2,000 square miles, that land grants by both countries, especially to American fruit companies, have led to friction and armed conflict.

Although several unsuccessful attempts had been made since 1847 to determine a boundary, it was not until after 1915, the year the first Cuyamel Railroad ties were laid in the Motagua valley, that the dispute took on a menacing tone.⁷² In 1915 the Cuyamel Fruit Company requested permission of the Guatemalan government to extend its railroad by one mile only, as far as Cuyamelito, in the Motagua valley.⁷³ The permission was granted but since then the railroad has been gradually extended beyond that point, without permission from the Guatemalan government, until now it almost reaches the right bank of the Motagua River. This it has done under the protection of the government of Honduras which also claims the valley. The situation is especially difficult because Guatemala's main railroad, a part of the Central American International Railway system, runs up from Puerto Barrios along the left bank of the river and operates a branch which crosses to Las Quebradas in the disputed area. These lines were built and are run by the United Fruit Company to reach a market for their produce.

66. Council on Foreign Relations, *Survey of American Foreign Relations* (New Haven, Yale University Press, 1929).

67. Panamá, Poder Ejecutivo, *Nota-Protesta*, August 24, 1921 (Panamá, Imprenta Nacional, 1921).

68. *La Prensa* (N. Y.), April 11 and July 2, 1929.

69. *Nuestro Diario* (Ciudad de Guatemala), November 22, 1929; frequent editorials in Tegucigalpa and Guatemala City papers during November and December 1929.

70-71. *Ibid.*, November 16, 1929.

72. Guatemala, Comisión de Límites, *Documentos relacionados con la mediación del departamento de Estado de los Estados Unidos, en 1918-1919*, p. 5, 6n.

73. *Ibid.*, p. 24-5.

THE UNITED STATES IN ROLE OF MEDIATOR

When serious armed conflicts occurred in the Motagua valley in 1917, the American State Department offered its good offices as friendly mediator. The offer was accepted and in 1918-1919 representatives of both governments met in Washington under the chairmanship of a representative of the American State Department. The usual mass of colonial and other documents was presented. It is on these documents that Honduras has based its claim entirely.⁷⁴ Guatemala, on the other hand, points out that as late as 1915 the Honduran government had no officials in the district and recognized Guatemala's jurisdiction over it. Guatemala claims further that it granted 71 concessions in the region, one of which dated from 1836, without any protest from Honduras.⁷⁵ In other words, there is in this case a repetition of the Bolivia-Paraguay and Costa Rica-Panama situations. One country has exercised *de facto* control over an area which has become valuable and a second country, which thinks its legal title to the district is better, has disputed the former's rights on the grounds of the legal *uti possidetis* of colonial times.

During the Washington conferences the mediator was asked to draw up a temporary boundary based on the *status quo*. For this purpose the American Geographical Society was charged to make a scientific survey of the territory in dispute. Its report⁷⁶ revealed that Guatemala actually did control the greater part of the Motagua valley and that out of over 4,000 square miles of territory surveyed less than 178 square miles of concessions were in dispute and about 46 miles of railroad right-of-way, this last belonging to the Cuyamel Railway Company.

The fundamental question of a definite boundary, however, still remained unsolved, and, although in 1923 the Ministers of Guate-

mala and Honduras in Washington declared that their governments had agreed to submit it to the arbitration of the President of the United States,⁷⁷ no further steps were taken.

In 1927 another advance into the disputed territory by the Honduras government occasioned reprisals by Guatemala, and war once more threatened. Again the United States in the rôle of mediator sought at the Cuyamel Conferences⁷⁸ in the following year to find a way out of the impasse. The outcome of the conferences held at Cuyamel in the early part of 1928 was a proposal by the American Secretary of State to the two governments that they submit the dispute jointly and unreservedly to the decision of the International Central American Tribunal. To the tribunal full power would be given to fix the boundary line between the two Republics, taking into consideration their political, economic and commercial interests. It would also be empowered to set the amount of any compensation which it might find equitable and proper to be paid by one party to the other. The suggestion was accepted by Guatemala,⁷⁹ whose *de facto* control of the Motagua valley would thus be taken into consideration. On the other hand, Honduras, which stakes all on its *de jure* claims, did not wish to broaden the scope of arbitration, and twice refused the new suggestion.

Since the failure of the 1928 conferences, no agreement has been possible. However, another attempt is now being made to find a formula for arbitration. A Guatemala-Honduras boundary conference has been meeting in Washington since January 20, at the invitation of the American government, and has been attempting to arrive at a settlement. The American government has endeavored to persuade Honduras to withdraw its condition that nothing but the judicial aspect of the question shall be considered.⁸⁰ In the matter of an arbitrator, Honduras continues to object to the International Central American Tribunal but would accept arbitration by one of the members of the Permanent Court of International Justice to be named by the President of the United States.

74. U. S. Department of State, *Mediation of the Honduran-Guatemalan Boundary Question, 1918-1919*, Vols. 1-2 (Washington, Government Printing Office, 1919-1921), especially p. 465-80, 495-545. Guatemala, Comisión de Límites, *op. cit.*, Vol. VIII, Nos. 17 and 18.

75. Guatemala, Comisión de Límites, *Límites entre Guatemala y Honduras. Algunos documentos presentados en las conferencias de Cuyamel*, No. 1 (Guatemala, Tipografía Nacional, 1928).

76. Guatemala, Comisión de Límites, *Límites entre Guatemala y Honduras. Estudio económico de la zona fronteriza hecho a 1919 por una Comisión del Departamento de Agricultura de los Estados Unidos* (Tegucigalpa, Tipografía Nacional, 1919), p. 26.

77. Gaston Nerval, "Central American Peace Threatened by Dispute," *The Sunday Star* (Washington), April 8, 1929.

78. *New York Times*, April 8, 1928.

79. *Ibid.*, July 24, 1928.

80. *La Prensa* (N. Y.), November 24, 1929.

V. THE COLOMBIA-NICARAGUA DISPUTE

The most recent phase of the controversy between Colombia and Nicaragua over the possession of the islands and keys off the coast of Nicaragua, known as the San Andrés Archipelago, originated in 1913 when the terms of the proposed canal treaty between Nicaragua and the United States first became known. By Article 2 of that treaty, Nicaragua leased to the United States for a term of 99 years the Great Corn and Little Corn Islands, which guard the approach of the San Juan River, and will guard the eastern terminus of any canal through Nicaragua.

Colombia immediately protested⁸¹ to the Nicaraguan government against this alleged usurpation of its rights over territory which it claimed to have held undisputed since 1882 and over which it even claimed to have exercised some measure of jurisdiction in colonial times⁸² whenever the British could be driven out.⁸³

Its claim, Colombia points out, was recognized in the Loubet award of 1900 (cf. p. 493) in the dispute between Colombia and Costa Rica. In this connection, the award reads:

"As regards the most distant islands of the Continent and situated between the Mosquito Coast and the Isthmus of Panama, especially Mangle Chico (Little Corn Island), Mangle Grande (Great Corn Island), the keys of Albuquerque, San Andrés, Santa Catalina, Providencia, Escudo de Veraguas, as well as any other isles, islets and banks which previously were dependent on the old province of Cartagena, under the denomination of the Cantón of San Andrés, it is understood that the territory of these islands, without a single exception, belong to the United States of Colombia."⁸⁴

The government of Colombia also protested to the United States on February 6, 1916, quoting the Loubet award, but the United States replied that the question was one primarily for discussion between the

governments of Colombia and Nicaragua, and called attention to the fact that in handing down his award, President Loubet had in mind only the claims of Costa Rica and Colombia and had not undertaken in any way to determine a question which was not before him.⁸⁵

In December 1913 the Nicaraguan Minister of Foreign Relations replied to Colombia's protest by reaffirming the right of Nicaragua to the Great and Little Corn Islands and to the San Andrés Archipelago as well. This originated a diplomatic controversy and exchange of notes which practically exhausted the subject but did not result in a solution.⁸⁶

Now, however, a solution seems possible, for by a treaty approved in November 1928⁸⁷ by the Colombian Congress, Colombia has recognized Nicaraguan sovereignty over the Mosquito Coast, including the Great and Little Corn Islands, while Nicaragua has recognized Colombia's sovereignty over the San Andrés Archipelago. This treaty, however, has not yet been ratified by the Nicaraguan Congress.

AGREEMENT REGARDING U. S. NAVAL BASES

The United States, with the consent of Nicaragua, has built lights and other aids to navigation on some of the keys in the San Andrés Archipelago, in spite of the protest of the Colombian government. As an outgrowth of the Colombian-Nicaraguan treaty, therefore, an exchange of notes took place in Washington on April 10, 1928 between the Colombian Minister and the State Department, temporarily settling the controversy between the two governments over the San Andrés Archipelago.⁸⁸ By this settlement, the United States and Colombia agreed to maintain the *status quo* in the keys of Quita Sueno, Roncador and Serrana; that is, the United States is to continue to maintain lights and other aids to navigation on the

81. U. S. Department of State, *Foreign Relations*, 1913, p. 1032.

82. Antonio José Uribe, *Cuestiones internacionales, económicas, políticas y sociales* (Bogotá, Librería Colombiana, 1925), p. 42-4.

83. Manuel M. de Peralta, *Jurisdicción territorial de Costa Rica*, p. 207.

84. Cf. also U. S. Department of State, *Foreign Relations*, 1916, p. 813.

85. *Ibid.*, p. 833.

86. Antonio José Uribe, *Anales diplomáticos y consulares de Colombia*, 6 vols. (Bogotá, 1901-1920), vol. I, 1900, p. 463-80; vol. II, 1901, p. 796-834; vol. V, 1918, p. 973-1037.

87. *New York Herald Tribune*, November 21, 1928.

88. Colombia, *Diario Oficial*, September 22, 1928.

keys while Colombian nationals may continue to fish in the waters belonging to the islands.

This agreement led to protests from still another country. Honduras, which has always disputed sovereignty over these islands with Nicaragua, addressed protests in Jan-

uary 1929 to both the United States and Colombia, and the Department of Foreign Relations published extensive colonial documents to prove its title.⁸⁹ There is little probability, however, that any change in the present status of these islands will occur as a result of Honduran protests.

VI. THE HONDURAS-NICARAGUA DISPUTE

His Majesty, King Alfonso XIII, arbitrator in so many other South American boundary disputes, handed down his decision in a controversy between Honduras and Nicaragua on December 23, 1906. From the Pacific a boundary had been agreed upon between Honduras and Nicaragua as far as the mountain pass of Teotecacinte, but on the line from this pass to the Atlantic the two countries could not agree. From near the pass of Teotecacinte two rivers flow into the Atlantic, one running in a southeasterly direction, the other, northeasterly. Each country, of course, desired as a boundary the river that would give it the larger territory, Nicaragua claiming the Patuca, and Honduras the Poteca (or Bodega) River, which flows into the Segovia (or Wanks or Coco) River and thence to the Atlantic.⁹⁰ By the arbitral award, the southern river, or the Poteca-Segovia line, was named as the boundary. As this gave to Nicaragua the Cape and town of Gracias a Dios, which had always been Honduran, Honduras was given in compensation a small area on the Segovia River above its confluence with the Poteca.⁹¹

The award was accepted unconditionally by Honduras,⁹² while Nicaragua on accepting it pointed out that before it could be

applied several points would have to be made clearer.⁹³

Nothing was done by either country to carry out the terms of the award. In 1911 a new government came into power in Nicaragua as the result of a revolution. Wishing perhaps to secure the good will of its neighbor, Honduras, the new Nicaraguan government, "as a fraternal move" and to "demonstrate the sentiments of justice and equity with which the men of the Nicaraguan revolution are imbued," declared the complete acceptance of the arbitral award of the King of Spain.⁹⁴

The Nicaraguan press, however, continued to agitate for a correction of the alleged errors in the award and even for a complete revision. It claimed the award was null and void, for the arbitrator had not been chosen in the manner prescribed by the protocol covering the case.⁹⁵

Up to the present, Nicaragua has not assented to the demarcation of the line of the 1906 award but, according to press reports, negotiations are now pending between the governments of Honduras and Nicaragua for the creation of a mixed commission to resume discussions on the subject, and there seem to be reasonable expectations that an agreement will be arrived at in the not very distant future.⁹⁶

89. *La Prensa* (N. Y.), January 7 and 28, 1929.

90. Honduras y Nicaragua, *Resumen de los alegatos y pruebas presentados a S.M. el Rey D. Alfonso XIII* (Madrid Fortanet, 1906).

91. Spain, Crown (Alfonso XIII), *Laudo pronunciado por S.M. el Rey de España en la cuestión de límites entre las Repúblicas de Honduras y Nicaragua* (Tegucigalpa, Tipografía Nacional, 1907).

92. A. A. Ramírez F. Fontecha, *Por la justicia y la verdad, El arbitraje entre Honduras y Nicaragua, Rectificación documentada al J. D. Gámez, Ministro de Relaciones Exteriores*

del Gobierno de Nicaragua (Tegucigalpa, La Prensa Popular, 1908), p. 15.

93. Nicaragua, *Gaceta Oficial* (Managua, no. 3257), December 3, 1907.

94. Honduras, Secretaría de Relaciones Exteriores, *Límites entre Honduras y Nicaragua, Incidente suscitado por Nicaragua* (Tegucigalpa, Tipografía Nacional, 1912), p. iv.

95. *Ibid.*, p. 9 and 19.

96. *New York Herald Tribune*, January 3, 1930.

VII. THE ARGENTINA-URUGUAY DISPUTE

The boundary line between Argentina and Uruguay in the River Plate is also still undetermined. Uruguay is willing to accept the median line of the river as a boundary, but this Argentina refuses to consider. It claims that Uruguay derives its boundaries from the treaty of August 27, 1828⁹⁷ between Brazil and the United Provinces of La Plata, which limit it to the eastern coast of the River Plate. Argentina now interprets the "eastern coast" to mean the strip of shore which is covered and uncovered by the tides, although Uruguay quotes many instances in which Argentina tacitly recognized Uruguay's jurisdiction over the waters near its coast. In 1901,⁹⁸ for example, when Argentina wished to dredge the channel running along the Uruguay coast, it asked permission of Uruguay, declaring that Argentina did not intend "to alter the jurisdiction which each riparian state exercises in the River Plate."

Buenos Aires is reached by ocean-going steamers only by means of an artificial channel over one hundred miles long which was built and is marked and dredged by the Argentine Republic. Should the median line be determined as the boundary, a consider-

able part of this channel would fall within Uruguay's jurisdiction.

Moreover, from Buenos Aires north and northwestward to Brazilian, Uruguayan, Paraguayan and Argentine river ports, the best channel is that which skirts the Uruguayan shore, east of Martín García Island. Up to the end of the nineteenth century a channel west of the island was dredged and marked by Argentina, but with the gradual increase of alluvial deposits and the greater number of ocean-going vessels destined for the Argentine port of Rosario on the Paraná River, Argentina abandoned this channel as too expensive to maintain and in 1901, with the consent of Uruguay, marked and dredged the eastern channel.⁹⁹ If Argentina should accept the median line as the boundary, therefore, Uruguay could claim sole jurisdiction over the one channel through which practically all commerce with ports on the River Plate system must pass—a situation which Argentina, since the importance of the eastern channel became apparent, has done all in its power to prevent. The question is not pressing now and it may be many years before the matter is brought up for a final solution.

97. Antonio Pereira Pinto, *Tratados do Brazil* (Rio de Janeiro, F. L. Pinto & Cia, 1865).

98. A. Vedia, *Martín García y la jurisdicción de la Plata* (Buenos Aires, 1910).

99. *Ibid.*, p. 385-7.